

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Crl.Rev.Pet.No. 4481 of 2007()

CRA.31/2004 of ADDL.SESIONS FAST TRACK COURT (ADHOC)III,
TRIVANDRUM

CC.756/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I,
ATTINGAL
.....

REVN. PETITIONER:

VINOD, S/O. PEETHAMBARAN,
MUTHIRAKUZHI VEEDU,
KOTTIYOD, KOTTIYOD DESOM.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, OFFICE OF THE ADVOCATE GENERAL,
HIGH COURT, ERNAKULAM (SUB INSPECTOR OF POLICE,
ATTINGAL)

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 14/12/2007,THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR , J

=====

CRL.R.P. NO. 4481 of 2007

=====

Dated this the 14th day of December, 2007.

ORDER

The petitioner, who is the 3rd accused in C.C. No. 756/2001 on the file of the Judicial First Class Magistrate-I, Attingal for an offence punishable under Section 324 r/w Section 34 of the Indian Penal Code, challenges the conviction entered and the sentence passed against him concurrently by the courts below.

2. The case of the prosecution can be summarised as follows:-

On 03.05.1994 at about 7.15 p.m. the three accused persons with the intention of voluntarily causing hurt to PW1, Shaji for having teased the sister of the 1st accused attacked him at Kuzhimukku-Kollampuzha road by A1 inflicting a cut injury in his right eye-brow and below the right eye with a chopper, A2 inflicting cut injuries on the left hip region of PW1 with a chopper resulting in PW1 sustaining grievous injuries.

3. On the side of the prosecution five witnesses were examined as PWs 1 to 5 and four documents were got marked as Exts. P1 to P4.

4. The revision petitioner alone stood trial and A1 and A2 were absconding. The revision petitioner denied the incriminating circumstances put to him in the evidence for the prosecution and maintained his innocence.

5. The learned Magistrate after trial, as per judgment dated 30.12.2003 found the revision petitioner guilty of the offence and sentenced him to simple imprisonment for six months and to pay a fine of Rs.3000/- and on default to pay the fine, to suffer simple imprisonment for one month. Even though the revision petitioner preferred an appeal before the Sessions Court, Thiruvananthapuram as Crl.Appeal No. 31/2004, the Additional Sessions Judge (Fast Track -III), Thiruvananthapuram as per judgment dated 25.01.2007 confirmed the conviction entered and the sentence passed against the revision petitioner. Hence this revision.

6. One of the contentions persistently raised by the revision petitioner before the courts below was that he was aged below 18 on the date of occurrence. Before this Court he has produced the third page of the S.S.L.C. book showing that he was born on

20.05.1976. If so, on 03.05.1994 the petitioner was below the age of 18 years and he was a juvenile. At any rate, he was below the age of 21 years and the courts below have not considered as to why he should not be released on probation under the Probation of Offenders Act, 1958. Considering the age of the revision petitioner and the acts alleged against him and the other relevant circumstances of the case, even though I confirm the conviction recorded against the revision petitioner, I am not inclined to confirm the sentence imposed on him. The revision petitioner is however directed to be released on probation for a period of two years. He shall appear before the trial court on **09.01.2008** for executing a bond which shall contain the conditions to be imposed by the trial court. The sum of Rs.3000/- imposed on the revision petitioner shall be compensation payable by the revision petitioner under Section 5 of the Probation of Offenders Act. He is given one month's time from today to deposit the compensation. The said amount shall be paid to PW1, the injured.

In the result the revision is disposed of confirming the conviction entered but directing the release of the petitioner on probation.

V. RAMKUMAR, JUDGE.

rv

CRL.R.P. NO. 4481/2007

: 5: